

BEFORE THE OFFICE OF THE COMMISSIONER OF RAILROADS

STATE OF WISCONSIN

Application of Gardner Cold Storage for an
Exemption from the Railroad Track Clearance
Law of Structures at the City of Owen, Clark County

9164-RV-585

NOTICE OF INVESTIGATION AND FINDINGS OF FACT AND ORDER

On January 11, 2005, Gardner Cold Storage (Gardner) filed an application with the Office of the Commissioner of Railroads under section 192.31, Wis. Stats., and sections RR 2.15 and RR 2.16, Wis. Adm. Code, for an exemption from the railroad track clearance laws of structures located at the Industrial Center in the City of Owen, Clark County. Gardner proposes the construction of a retractable door to aid in loading and unloading cars. The door support will extend to within 18 feet 11 inches above top of rail.

Gardner and the Wisconsin Central Ltd (Railroad) have entered into a stipulation regarding the overhead clearance restriction.

Findings of Fact

THE COMMISSIONER FINDS:

Gardner proposes the construction of a retractable flexible doorway that will extend from the facility to the rail car to protect the loading and unloading process from the weather. The support structure for this retractable door will be constructed at 18 feet 11 inches above top of rail.

There will be a minimum horizontal clearance of 10 feet 0 inches from track centerline on both sides. The spur track in question runs north and south and is tangent and level in the area of restricted clearance. The Wisconsin Central Ltd, a division of the Canadian National Railroad, will service the site. There are no other industries on the spur. There is currently no "No Clearance" sign at this location. Rail employees are forbidden to ride on top of moving cars. The installation of telltales would be impractical.

Wisconsin law requires a minimum of 23 feet vertical clearance. The petitioner seeks exemption from this requirement.

Construction of the retractable door will not imperil life and limb, and the public interest permits such construction, subject to the conditions set forth in the following order.

Conclusion of Law

THE COMMISSIONER CONCLUDES:

That the Office has jurisdiction under section 192.31, Wis. Stats., and sections RR 2.15 and 2.16, Wis. Adm. Code, to grant the requested exemption, and such an appropriate order should be entered in accordance with the above Findings of Fact.

Order

THE COMMISSIONER THEREFORE ORDERS:

1. That an exemption from the railroad clearance and telltale requirements of section 192.31, Wis Stats., and sections RR 2.15 and RR 2.16, Wis Adm. Code, is hereby granted with respect to the retractable door, subject to the condition that Gardner install and maintain a "No Clearance" sign in advance of the doorway.

2. That the clearances authorized, subject to the condition in paragraph 1, is a minimum vertical clearance of 18 feet 11 inches from track centerline to the doorway support.

3. That jurisdiction is retained.

Dated at Madison, Wisconsin_____.

By the Office of the Commissioner of Railroads.

Rodney W. Kreunen, Commissioner